

November 30, 1973

TO: All Commissioners and Alternates
FROM: Charles R. Roberts, Executive Director

SUBJECT: SPECIAL HEARING ON AB 2040 (KNOX) (BAY AREA REGIONAL PLANNING AGENCY)
(For Commission Consideration December 6, 1973)

1. BACKGROUND. Attached is a copy of the notice of a December 14 hearing in Oakland on AB 2040 (Knox) by the Regional Organization Subcommittee of the Assembly Committee on Local Government and a letter dated November 21, 1973, from Assemblyman John T. Knox to Chairman Evers requesting recommendations on questions to be discussed at the hearing. There is also an enclosure with Assemblyman Knox' letter which discusses the "Major Issues" and gives background information on the so-called "Denver Plan." As Assemblyman Knox points out in his letter, the purpose of the hearing is to try to find equitable solutions to some of the bill's potential problems, with particular emphasis on the question of the Denver Plan.

2. PURPOSE. Chairman Evers plans to appear at the hearing on December 14, 1973, representing the Commission. The purpose of this memorandum is to outline some of the issues facing the Commission in connection with this proposed legislation and to suggest matters to be discussed by the Commission in establishing a preliminary position for Chairman Evers' testimony. Due to the interim aspect of the hearing the staff feels that the Commission need not necessarily take a final position on the legislation at this time, but should monitor the bill and be prepared to take a final position later in the legislative process.

3. ASSEMBLY BILL 2040 (KNOX).

a. Governing Board. As introduced by Assemblyman Knox and passed by the Assembly, AB 2040 would create a new agency, the Bay Area Regional Planning Agency (BARPA) with planning responsibilities for the nine Bay Area counties. It would have a governing board consisting entirely of members of county boards of supervisors and the governing bodies of cities within each county. Representation on the governing board would be as follows:

- (1) Counties with a population of less than 300,000 would have two representatives, one from the board of supervisors and one from a city.
- (2) Counties with a population of 300,000 to 600,000 would have four representatives, two from the board of supervisors and two from cities.
- (3) Counties with more than 600,000 would have six representatives, three from the board of supervisors and three from cities.

b. Responsibilities. The new agency would replace the Association of Bay Area governments (ABAG) as the regional planning agency for the Bay Area, and the new governing board would also become the ex officio governing board of the Metropolitan Transportation Commission (MTC) and the Bay Area Sewage Services Agency (BASSA).

BARPA would have two major responsibilities, other than those it would assume under existing MTC and BASSA legislation:

- (1) the preparation of a comprehensive regional plan for the nine Bay Area counties; and
- (2) enforcing consistency with its regional plan through ordinances and cease and desist orders.

c. The Regional Plan. Under the proposed legislation, the regional plan must have the following elements:

- (1) An environmental quality plan for the integrated development, management, and control of the air and water resources of the region, which must be consistent with the policies and requirements of the Regional Water Quality Control Board and the State Water Resources Control Board; and State Air Resources Board; and the State Solid Waste Management Board.
- (2) A transportation plan, which at least at the outset must be the MTC regional transportation plan.
- (3) An open-space plan which takes into account scenic and recreational needs; the location of flood plains, earthquake faults, and steep slopes; the need to maintain the water quality and protect watersheds; the importance of some land for agricultural production; the location of habitat for indigenous wildlife.
- (4) A regional parks plan.
- (5) A land use plan for the regional distribution, location, and extent of land uses for all categories of public and private land.
- (6) A resource management plan for the conservation, development and management of the regional resources of the region, including forests, rivers, soils, fish and wildlife, and other natural resources.

The plan would also be required to contain statements relating to present conditions in the region; to formulate goals for the future development of the region; and to specify development controls and other public actions that may be necessary to achieve such goals.

d. Powers. As the successor to ABAG, the new agency would have ABAG's existing power to require applications for most federal funds to be consistent with the ABAG regional plan, and would also exercise MTC's similar powers with regard to applications for federal transportation funds. However, the new agency would also be given important new powers to enact ordinances to carry out its plan for the region. These ordinances would be limited "to those specific matters which have a direct and substantial effect upon the accomplishment of the regional objectives and policies set forth in the regional plan..." but with that limitation, the plans of all local agencies--which includes all cities, counties, cities and counties, and special districts in the region--as well as their ordinances and regulations controlling development, would otherwise have to be consistent with the BARPA ordinances. AB 2040 also provides for a cease and desist procedure through which the BARPA can bring non-conforming local plans or land use regulations into compliance with its plan and ordinances.

e. Financing. BARPA would be financed from the revenues generated by real estate transfer tax not to exceed twenty-five cents per \$500 in value of the property being transferred.

f. BCDC and BARPA. In its present form, AB 2040 does not require that the plans or land use regulations of state commissions, including BCDC, be consistent with ordinances issued by BARPA. Nor does the legislation propose that BCDC be incorporated into BARPA. However, the geographical jurisdictions of the two agencies would overlap, and the planning responsibilities of BARPA include matters--such as waterfronts, shorelines, fisheries, wildlife, parks and water-related industry--for which BCDC is also responsible under the McAteer-Petris Act.

4. SIGNIFICANT ISSUES. The hearing notice lists four significant issues, and the Commission should consider all four in establishing a preliminary position.

a. Composition of the Governing Board of the Proposed Agency.

In his letter, Assemblyman Knox indicates that the principal unresolved political issue is the composition of the governing board of the proposed agency. In the past, proposals for regional government in the Bay Area which included direct election of the governing board have been opposed by local government, and for that and other reasons, have not passed the Legislature. AB 2040 presently provides for a governing board composed entirely of representatives of local government, but Assemblyman Knox has requested the Commission's reaction to the "Denver Plan" as a possible compromise between the view that the governing board should be primarily representative of local government, and the view that the board should be directly elected. Under the "Denver Plan" the members of the governing board would be elected from districts of equal population, but only elected local officials would be eligible to run. Further details of the Plan can be found in Assemblyman Knox' letter and the attachment.

The "Denver Plan" would appear to be a reasonable compromise between direct election and appointment by local government. However, it is arguable that one reason for the success of BCDC has been the widely-representative composition of the Commission, which while it does not include directly-elected Commissioners, does include both elected and appointed officials, and individuals appointed both by the Governor and the State Legislature. The Commission may wish to consider whether a Commission having different composition would be as effective in carrying out the Bay Plan.

b. Existing Regional Agencies Which Might Be Absorbed by A Regional Planning Agency.

The Commission has already taken a position in the Bay Plan on multi-purpose regional government. In the first section ("A Regional Agency is Needed") of Part V of the Plan, the Commission recommended to the Legislature that a multi-purpose, limited regional government should be created, with the carrying out of the Bay Plan as one of its principal functions.

c. Manner In Which Such Agencies Might Be Absorbed.

This is a most difficult question, and it presents many problems requiring study and discussion, most of which will have to be addressed in the course of Plan revision. However, for the time-being, Assemblyman Knox has indicated that, at this hearing, he is primarily interested in the question of the timing for the absorption of agencies like BCDC into a regional government, should the decision be made to do so.

d. Other Suggestions For Amendments to AB 2040.

The Commission has also been asked to make suggestions as to other amendments to AB 2040 which might be desirable. In this connection, the staff believes that the Commission may wish to consider recommending an amendment that would require the regional agency to adopt the Bay Plan as the regional plan for those areas within the Commission's jurisdiction. Although BCDC would not be subject to the ordinances of the BARPA under the present version of AB 2040, there is potential for conflict if both agencies are planning and issuing land use regulations for the same areas. Incorporation of the Bay Plan into a comprehensive regional plan should not be unduly difficult since the Plan was prepared on a regional basis originally.

(Specific wording to amend AB 2040 would be prepared by the staff, if the Commission wishes to make such recommendation.)

5. ITEMS FOR DISCUSSION

The staff recommends that the Commission discuss and provide guidance on the following questions:

- a. Is the general approach of the Denver Plan a practical one? Who should be eligible to run for governing board, if the Denver Plan is used? Should the bill provide for some modification of the candidacy requirements at a specified future date?
- b. If BCDC is to become part of BARPA when should this absorption take place?
- c. If BCDC is not to become part of BARPA should a recommendation be made that the Bay Plan become the Plan for the Bay in AB 2040?

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Assembly Committee on Local Government

SACRAMENTO OFFICE
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SACRAMENTO, CALIFORNIA 95814
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JOHN T. KNOX
CHAIRMAN



NOTICE OF SUBCOMMITTEE HEARING

(Subcommittee on Regional Organization)

DATE: December 14, 1973

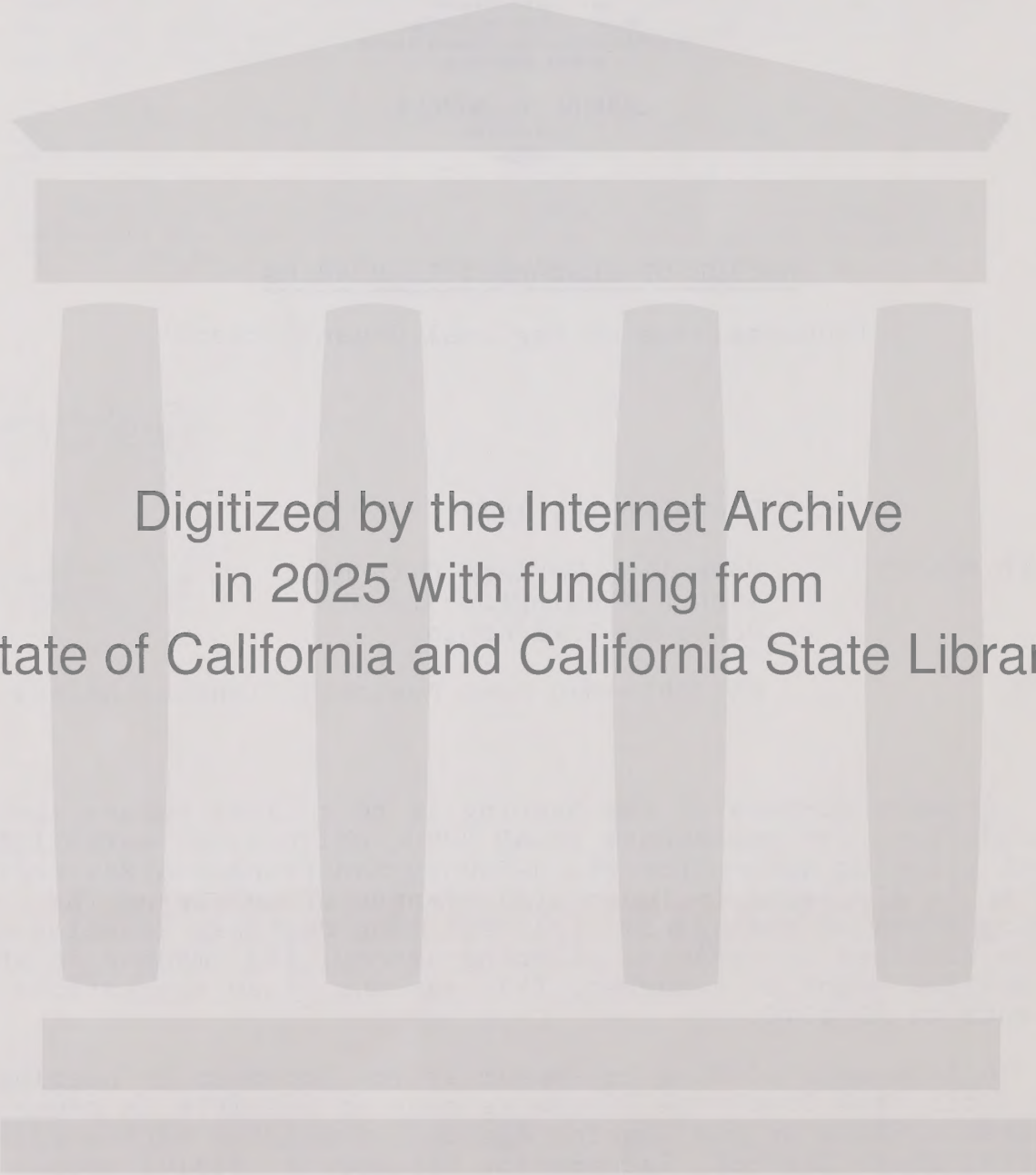
TIME AND PLACE: Room 115, Oakland City Hall
14th & Washington Streets
Oakland, California

SUBJECT: AB 2040--Bay Area Regional Planning Agency

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SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

Primary purpose of the hearing is to solicit suggestions and recommendations for amendments to AB 2040, which would establish a regional planning agency for the 9-county San Francisco Bay region. Issues to be discussed include: (1) manner of selecting the governing board of the agency; (2) existing regional agencies which might be absorbed by regional planning agency; (3) manner in which such agencies might be absorbed; (4) various other suggestions for amendments to AB 2040.

All persons wishing to appear at the December 14 hearing should notify the Committee Office as soon as possible in order to be assured a place on the hearing agenda. Committee Office address: Room 2148, State Capitol, Sacramento, California 95814; phone (916) 445-7890.



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JOHN T. KNOX
CHAIRMAN



November 21, 1973

Mr. William D. Evers, Chairman
Bay Conservation and Development
Commission
650 California Street
San Francisco, California 94108

Dear Bill:

As you may be aware I have scheduled for December 14, a special interim hearing on AB 2040, which would establish the "Bay Area Regional Planning Agency". The hearing will be conducted by the Local Government Committee's Subcommittee on Regional Organization, which has several Bay area legislators among its membership.

Although AB 2040 has passed the Assembly, several significant issues need to be resolved before the measure is presented in the Senate. I hope that suggestions offered at the December 14th hearing, together with the advice of my colleagues, will provide equitable solutions to these problems.

The principal unresolved political issue in AB 2040 is the issue of the governing body of the Regional Planning Agency. I am particularly interested in reactions to the so-called "Denver Plan" as a potential compromise for this difficult issue. An outline accompanying this letter lists specific questions about this approach upon which we would like your comments.

A second major issue is the number of existing regional agencies which might be absorbed by the new regional planning agency. As presently drafted, AB 2040 would absorb both BASSA and MTC by making the governing board of the regional planning agency the ex-officio governing board of these agencies. It has been suggested that this approach should be extended to other agencies with regional planning responsibilities - e.g., the

Mr. William D. Evers

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Air Pollution Control District and BCDC. The outline accompanying this letter also includes specific questions in regards to this issue.

Finally, we are also concerned with criticism and questions about other provisions in AB 2040 which you feel may need revision or amendment.

Please make your recommendations as specific as possible. By way of example, BASSA recently made the general recommendation that AB 2040 be amended to protect the civil service rights of existing BASSA employees. Such a suggestion is of little practical value unless it identifies particular deficiencies in current provisions of AB 2040 and specifies the type of civil service protections which need to be included in the bill.

If you have any questions about the hearing or about your presentation please contact Tom Willoughby, consultant to the Local Government Committee, at the Committee office in Sacramento. (Room 2148, State Capitol; telephone 445-7890).

Note that the December 14th hearing will be held in the Oakland City Council Chamber, 14th and Washington, Oakland, and will begin promptly at 10:00 a.m.

Thank you for your cooperation.

Sincerely,

JOHN T. KNOX, Chairman
Local Government Committee
California State Assembly

JTK:jd
Enclosure

cc: Mr. Charles Roberts

Major Issues
(for discussion at hearing Dec. 14, 1973)

I. Governing body of Regional Planning Agency -- The "Denver Plan"

1. Background:

The "Denver Plan" approach to selecting the Governing Board of the Regional Planning Agency would operate as follows. Members of the Governing Board would be elected from districts of substantially equal population. However only elected local officials would be eligible to run in such elections. Such officials would serve on the Governing Board of the Regional Planning Agency and would also continue to serve as councilmen, supervisors, etc.

Issues for discussion:

- a. Is the general approach of the so-called "Denver Plan" a practical one? Is it (perhaps with some modification) a politically acceptable method for selecting the governing body of the Regional Planning Agency? If not, what approach would be preferable?
 - b. If the "Denver Plan" approach is used, should any elected local official be eligible to run for the governing board of the Regional Planning Agency (including, for example, elected members of special district governing boards), or should eligibility for the governing board of the agency be limited to councilmen and supervisors?
 - c. If the "Denver Plan" approach is used, should the bill provide for some modification of the candidacy requirements at a specified future date?

If so, what type of modification would be appropriate? For example, at some future date should members of the general public become eligible to run for the governing board of the agency? If so, should elected local officials be prohibited from running? Or should elected local official and members of the general public be equally eligible to run for the governing board of the agency at a specified future date?
 - d. If the "Denver Plan" approach is used, what provisions, if any, should be made for the situation in which an elected local official ends his local term of office (e.g., is defeated for reelection)? Should he serve out his term of office on the Regional Planning Agency? Or should he be required to vacate his position on the Regional Planning Agency?
- e. Should elections to the Regional Planning Agency be by a plurality of the votes cast? Or by a majority of the votes cast? (The latter approach would require provisions for a "run off" election if no candidate got a majority vote.)

II. Agencies to be absorbed by the Regional Planning Agency

1. What existing regional agencies should be absorbed by the Regional Planning Agency?

At present AB 2040 substitutes the governing board of the Regional Planning Agency for the existing governing boards of BASSA and MTC. Should this approach be extended to BCDC and to the Air Pollution Control District? Should it be extended to any other regional agencies?

2. How should the above-mentioned absorption of specified regional agencies be accomplished?

Should AB 2040 be amended to permit the Regional Planning Agency to absorb specified regional agencies by resolution of its governing board? (This approach would permit the Regional Planning Agency to take over the operation of other regional agencies on a "one-by-one" basis, thereby eliminating potential management difficulties which might occur if all such regional agencies were automatically taken over by the Regional Planning Agency at the same time.)

III. Additional issues

Comment is solicited on any other provisions of AB 2040 which may be of concern to individual witnesses. Please make such comments and recommendations for amendments as specific as possible.

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